IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.930 OF 1999.

Smt.Shamim Akhatar W/o
Saddruddin Sayyad : Appellant.

versus

Manveersingh S/o. Kartarsingh
& ors. : Respondents.

Mr.K.S.Patil for the appellant.
Mr.J.S.Chandnani for Respondent No.4.

CORAM : D.G.DESHPANDE,J.

DATED : 27th APRIL 2005.

ORAL ORDER

1. Heard advocate for the appellant and respondent No.4. The appeal is filed by the original claimant for enhancement of compensation awarded to them by the Motor Accident Claims Tribunal, Nashik. The claimant had claimed Rs.One lac. The tribunal awarded Rs.77,000/-

and, hence this appeal.

2. Since there is no cross appeal or cross objection, the liability of the respondents to pay the amount is final. The question is only whether the compensation should be enhanced. In this regard my attention was drawn by the counsel for the appellant to that part of the judgment of tribunal wherein the tribunal applied multiplier of 12. Admittedly, the age of the deceased was 27 years; the age of his mother was 45 years, but that of his wife was 25 years and, therefore, the counsel for the appellant contended that multiplier of 12 was not at all proper. I find force in this submission. It is not that the claim petition was filed by the mother aged about 45 years. If that would have been a case, then might be multiplier was proper. But when the wife of the deceased i.e. the widow aged about 25 years, is also co-claimant and when the deceased was 27 years of age, then applying multiplier of 12 was not at all proper.

3. The counsel for the respondent tried to contend that this multiplier was properly applied. But this can not, at all, be accepted.

Since the claim of the claimant was Rs.One lac and multiplier was wrongly applied, applying any other multiplier like 14 or 15 would take the claim over and above Rs.One lac. Therefore, the immediate amount of claim asked for and prayed for at Rs.One lac has to be awarded. Hence the order :-

:ORDER:

Appeal is partly allowed.

Respondents to pay to the claimant Rs.One lac towards compensation.

Rest of the order to remain as it is.

No order as to costs.

[D.G.DESHPANDE]

27/04/2005 JUDGE.